

Doc Code: AP.PRE.REQ

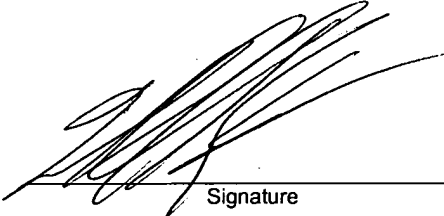
PTO/SB/33 (07-05)

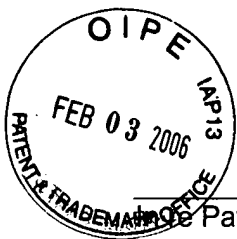
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 0649-0769P	
	Application Number 09/765,670-Conf. #6398	Filed January 22, 2001	
	First Named Inventor Shu MURAYAMA et al.		
	Art Unit 2663	Examiner C. H. A. Lee	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. <u>29,680</u></p> <p> Signature <u>Michael K. Mutter</u> Typed or printed name</p> <p><u>(703) 205-8000</u> Telephone number <u>February 3, 2006</u> Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			



Docket No.: 0649-0769P  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Patent Application of:  
Shu MURAYAMA et al.

Application No.: 09/765,670

Confirmation No.: 6398

Filed: January 22, 2001

Art Unit: 2663

For: MEDIA DATA CODING AND MULTIPLEXING  
APPARATUS, MEDIA DATA CODING AND  
MULTIPLEXING SYSTEM, AND MEDIA DATA  
CODING AND MULTIPLEXING METHOD

Examiner: C. H. A. Lee

**REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**MS AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

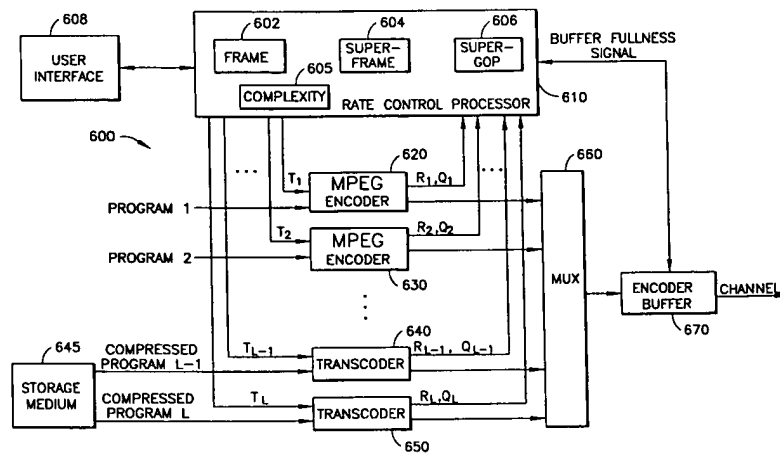
Sir:

In addition to the Notice of Appeal which is being concurrently filed, Applicants respectfully request a Pre-Appeal Brief Conference to consider the issues raised in the Office Action dated September 6, 2005, that finally rejected claims 1-14.

**§ 102(e) REJECTION – WANG**

Claims 1, 10 and 14 have been finally rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Wang et al. (USP 6,167,084, hereinafter "Wang"). Applicants respectfully traverse the rejection. For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. § 2131; M.P.E.P. § 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. The Applicants respectfully submit that Wang fails to teach, show or suggest, "a parameter setting section for selectively adding, after multiplexing has occurred, a parameter to the multiplexed packet string output from the multiplexing section to output an output multiplex stream."

The Office Action has relied upon Fig. 4 (sic) of Wang (Fig. 6 is the correct figure) to show a MPEG encoder **620** (a coding section) and a Mux **660** (a multiplexing section) and a rate control processor (a parameter setting section) that allegedly correspond to the elements of claim 1. For convenience of the reader Fig. 6 is reproduced below:



**FIG.6**

It is respectfully submitted that the rate control processor 610 of Fig. 6 does not correspond to the claimed parameter setting section or step of claims 1, 10 and 14. It is also respectfully submitted that Wang does not disclose any parameter setting section that sets a parameter **after mutlitplexing**.

The claimed parameter setting section or step of claims 1, 10 and 14 sets the parameters **after multiplexing has occurred**. Wang at col. 18, lines 46-48 clearly teaches that a parameter is adjusted in either the MPEG encoders **620** or transcoders which are disposed **before the multiplexer 660**. The Examiner's allegation that an adjusted parameter may appear in the data stored in the encoder buffer **670** which is **disposed after the multiplexer 660** does **not** literally meet the limitations of claims 1, 10 and 14. In order to meet the limitations of claim 1, 10 and 14 the parameter setting must occur **after the multiplexing**. Accordingly, it is respectfully requested that Examiner's final rejection of claims 1, 10 and 14 as being anticipated by Wang must be withdrawn.

**§ 102(e) REJECTION – OBIKANE**

Claims 2 and 7 have been finally rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Obikane (USP 6,404,818, hereinafter “Obikane”). Applicants respectfully traverse the rejection. As stated above, for a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. In this instance, Obikane fails to teach or suggest each and every claimed element. For example, claim 2 recites “a parameter setting section for selectively adding a parameter to the multiplexed packet string output”. In other

words, the parameter is set **after multiplexing has occurred**, because in Applicants' claimed invention the parameter is added to the multiplexed packet string output.

In the Office Action (page 2, section 2), it has been alleged that the packetizer **21B** of Fig. 12 of Obikane is a parameter setting section which corresponds to Applicants' claimed "parameter setting section". From Fig. 12, it is clear that the packetizer **21B** packetizes the coded video data **S21** **before the coded video data is multiplexed by the multiplexer 29.** For the convenience of the reader Fig. 12 is reproduced below:

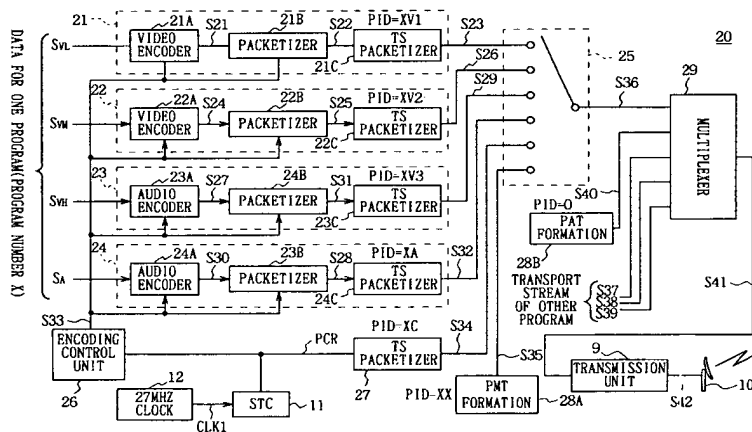


FIG. 12

In other words, the parameters of Obikane are not set in the final output or **after** multiplexing by the multiplexer **29**. Instead, Obikane teaches that the parameters are set in the packetizer **21B** **before** the coded video data is multiplexed.

In the Applicants' claimed invention certain parameters are set **after multiplexing**. For example, the Applicants have discovered that if parameters having continuity are added in the parameter setting section of the media data coding and multiplexing apparatus **at the final stage** (after multiplexing), parameters which need to be set continuously can be set in one batch and continuity can be easily held. There is no disclosure whatsoever of this claimed feature in the Obikane patent, and Obikane actually appears to teach away from the claimed invention by setting parameters **before multiplexing**.

For at least the above stated reasons, independent claim 2 is patentable and not anticipated by Obikane. Since dependent claim 7 depends from claim 2, it is respectfully

submitted that dependent claim 7 is patentable and not anticipated by Obikane for at least the same reasons as claim 2.

**§ 103 REJECTION – Wang**

Claims 11-13 stand finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wang. Applicants respectfully traverse this rejection. Since it has been shown above that claim 1 is patentable over Wang, and since claims 11-13 depend from independent claim 1, claims 11-13 are also patentable over Wang for at least the same reasons. Applicants also respectfully request that the final rejection of claims 11-13, based on Wang, be withdrawn.

**ALLOWABLE SUBJECT MATTER**

Applicants note that the claims 3-6 and 8-9 are indicated to define allowable subject matter, but they have been objected to as depending upon rejected base claims. It is respectfully submitted that the rejected base claims are in condition for allowance, and it is respectfully requested that the objection to claims 3-6 and 8-9 be withdrawn.

**CONCLUSION**

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Richard J. McGrath (Reg. No. 29,195) at the telephone number of (703) 205-8000, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: December 1, 2005

Respectfully submitted,

By 

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Registration No.: 29,680

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